

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|  |                           |
|--|---------------------------|
| In re:   | )                         |
| FAIRFIELD SENTRY LIMITED, et al.,                                    | ) Chapter 15 Case         |
| Debtors in Foreign Proceedings.                                      | ) Case No: 10-13164 (SMB) |
|  | ) Jointly Administered    |
|  | )                         |
| FAIRFIELD SENTRY LIMITED (IN LIQUIDATION) and                        | )                         |
| FAIRFIELD SIGMA LIMITED (IN LIQUIDATION), acting                     | )                         |
| by and through the Foreign Representatives thereof, and              | ) Adv. Pro. No. 10-03635  |
| KENNETH KRYS and CHARLOTTE CAULFIELD, solely in                      | ) (SMB)                   |
| their capacities as Foreign Representatives and Liquidators          | )                         |
| thereof,   | )                         |
|  | )                         |
| Plaintiffs,  | )                         |
| -against-  | )                         |
|  | )                         |
| ABN AMRO SCHWEIZ AG A/K/A ABN AMRO                                   | )                         |
| (SWITZERLAND) AG, et al.,  | )                         |
|  | )                         |
| Defendants.  | )                         |
|  | )                         |
|  | )                         |
| This document is also being filed in the lead adversary              | )                         |
| proceeding, <i>Fairfield Sentry Ltd. (in Liquidation), et al. v.</i> | )                         |
| <i>Theodoor GGC Amsterdam, et al.</i> , Adv. Pro. No. 10-03496.      | )                         |
|  | )                         |

**DEFENDANT-APPELLEE'S COUNTER-STATEMENT OF  
ISSUES TO BE PRESENTED AND COUNTER-DESIGNATION OF ITEMS  
TO BE INCLUDED IN THE RECORD ON APPEAL**

Defendant-Appellee BBVA (Suisse) SA (“Defendant-Appellee”), by and through its undersigned counsel, respectfully submits, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, this counter-statement of additional issues to be presented and counter-designation of items to be included in the record on appeal with respect to the appeal by Plaintiffs in the above captioned adversary proceeding (the “Adversary Proceeding”) of the Stipulated Order

Granting In Part And Denying In Part Moving Defendants' Motions To Dismiss And Plaintiffs' Motion For Leave To Amend entered April 15, 2019 ("Stipulated Order"), the December 6, 2018 Memorandum Decision ("December 6, 2018 Memorandum Decision"), and the August 6, 2018 Memorandum Decision and Order Regarding the Defendants' Motions to Dismiss for Want of Jurisdiction ("August 6, 2018 Memorandum and Order") (together, the "Appealed Decisions and Orders") before the United States Bankruptcy Court for the Southern District Of New York.

**COUNTER-STATEMENT OF  
ADDITIONAL ISSUES TO BE PRESENTED ON APPEAL<sup>1</sup>**

1. All issues designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Appealed Decisions and Orders, including, without limitation, the issues stated in Plaintiffs' Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal and the issues stated in Defendant-Appellees' Counter-Statement of Issues to be Presented and Counter-Designation of Items to be Included in the Record on Appeal filed on June 4, 2019 by co-defendants-appellees BNP Paribas (Suisse) SA, *et al.* (ECF No. 437).<sup>2</sup>

**COUNTER-DESIGNATION OF ITEMS TO BE  
INCLUDED IN THE RECORD ON APPEAL<sup>3</sup>**

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Appealed Decisions and Orders, including, without limitation, the items designated in Plaintiffs' Statement of Issues to be

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<sup>1</sup> Defined terms carry the meaning ascribed to them in the corresponding decision or order from which appealed.

<sup>2</sup> Memorandum Decision Granting in Part and Denying in Part Defendants' Motions to Dismiss and Plaintiffs' Motions for Leave to Amend, *Fairfield Sentry Limited, et al. v. Theodoor GGC Amsterdam, et al.*, 10-03496-smb (ECF No. 1743).

<sup>3</sup> Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

Presented and Designation of Items to be Included in the Record on Appeal (ECF No. 435) and the items designated in Defendant-Appellees' Counter-Statement of Issues to be Presented and Counter-Designation of Items to be Included in the Record on Appeal filed on June 4, 2019 by co-defendants-appellees BNP Paribas (Suisse) SA, *et al.* (ECF No. 437).<sup>4</sup>

**RESERVATION OF RIGHTS**

Defendant-Appellee expressly reserves the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or counter-designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Appealed Decisions and Orders.

Dated: June 4, 2019  
New York, New York

Respectfully submitted,

**WINSTON & STRAWN LLP**

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<sup>4</sup> Unless otherwise specified, citations to (ECF No. \_\_\_\_) refer to docket entries from *Fairfield Sentry Limited, et al. v. ABN AMRO Schweiz AG a/k/a ABN AMRO (Switzerland) AG*, Adv. Pro. No. 10-03635-smb (SMB) (Bankr. S.D.N.Y.).